



INTER-OFFICE MEMORANDUM

TO: Opinion Committee
FROM: Becky
DATE: August 17, 1993
SUBJECT: Corrected version of OR93-499

Please find attached a corrected version of OR93-499. This version replaces the copy you were previously given.



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 17, 1993

Honorable Betty Janicek
Mayor
City of Bellaire
7008 South Rice Ave.
Bellaire, Texas 77401

OR93-499

Dear Ms. Janicek:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 21269.

The City of Bellaire (the "city") received an open records request for a letter from Mr. Bill B. Berryhill concerning the sale of certain property currently owned by the city. You state that you have refused to release the letter for two reasons. You first contend that you are not required to release the requested letter because "[t]he letter is personal correspondence to me, individually and is not correspondence with a governmental entity or department."

If it is your contention that the requested letter is not subject to the Open Records Act, your argument is without merit. Section 3(a) of the act provides:

All information collected, assembled, or maintained by or for governmental bodies . . . pursuant to law or ordinance or in connection with the transaction of official business is public information and available to the public during normal business hours of any governmental body

The letter in question is addressed to "Hon. Betty Janicek & City Council Members" and clearly was submitted to the city "in connection with the transaction of official business." This document is therefore subject to the Open Records Act and may be withheld only to the extent that its contents come under the protection of one of the act's exceptions to required public disclosure.

You next contend that the letter comes under the protection of section 3(a)(9) of the act, which protects:

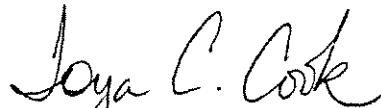
private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy.

We again note that the letter is addressed to the city council as a whole and thus cannot be deemed to be "private correspondence." Further, section 3(a)(9) protects only information that comes under the protection of common-law privacy. Open Records Decision No. 506 (1988). Common-law privacy protects information only if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). After reviewing the letter at issue, this office has determined that none of the information contained in the letter meets the test for common-law privacy.

You have raised none of the act's other exceptions to public disclosure with regard to the letter. The city therefore must release the letter in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Toya C. Cook
Assistant Attorney General
Open Government Section

TCC/RWP/lmm

Ref.: ID# 21269

cc: Ms. Laurie Madden
The Newspaper
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Bellaire, Texas 77401